

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

EDNA LUM, Personal Representative
of the Estate of Thomas T. Lum

Case Number CV 09-3065-CL

Plaintiff,
v.

ORDER

CITY OF GRANTS PASS, a municipal
corporation, and **G. DEAN RIDENOUR**

Defendants.

Clarke, Magistrate Judge:

The court held a telephone hearing, at the request of the parties, to resolve a discovery dispute on February 24, 2010. Both parties appeared by phone. Parties disagreed about how to depose Carolyn Lum who resides out of state and is both a witness and a member of the estate. She is not a plaintiff, but a beneficiary.

Plaintiff argued that Carolyn Lum is not a plaintiff and Defendants are thus obligated to pay expenses for her deposition, including travel to and from Pennsylvania where she currently

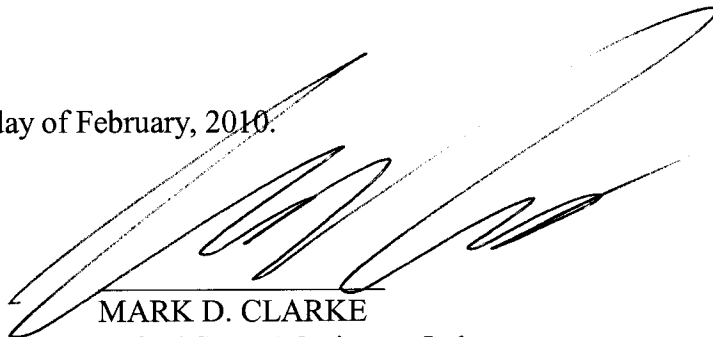
resides. Defendants disagree, arguing that because Plaintiff is a beneficiary of the estate and a claimant for purposes of the claim under the Oregon Tort Claims Act, she should be treated as a plaintiff and required to appear in person, at Plaintiff's expense.

After hearing the arguments and considering the matter, the court orders the following:

Defendants have the option:

- (1) Defendants may depose Carolyn Lum, in person, provided that they pay reasonable expenses for her travel to and from Pennsylvania for the desired deposition; OR
- (2) Defendants may depose Carolyn Lum, via videoconferencing, at their expense.

DATED this 24 day of February, 2010.



MARK D. CLARKE
United States Magistrate Judge